

## § 295.30

submitted as part of its Emergency Preparedness Agreement.

(Approved by the Office of Management and Budget under Control Number 2133-0525)

[62 FR 37737, July 15, 1997, as amended at 68 FR 62538, Nov. 5, 2003; 69 FR 61451, Oct. 19, 2004]

### Subpart D—Payment and Billing Procedures

#### § 295.30 Payment.

(a) *Amount payable.* A MSP Operating Agreement shall provide, subject to the availability of appropriations and to the extent the agreement is in effect, for each Agreement Vessel, an annual payment of \$2,100,000 for each fiscal year. This amount shall be paid in equal monthly installments at the end of each month. The annual amount payable shall not be reduced except as provided in paragraph (b) of this section and § 295.31(a)(3).

(b) *Reductions in amount payable.* (1) The annual amount otherwise payable under a MSP Operating Agreement shall be reduced on a pro rata basis for each day less than 320 in a fiscal year that an Agreement Vessel is not operated exclusively in the U.S.-foreign trade or in mixed foreign and domestic trade allowed under a registry endorsement issued under 46 U.S.C. 12105. Days during which the vessel is drydocked or undergoing survey, inspection, or repair shall be considered to be days during which the vessel is operated, provided the total of such days within a fiscal year does not exceed 30 days, unless prior to the expiration of a vessel's 30 day period, approval is obtained from MARAD for an extension of the 30 day provision.

(2) There shall be no payment for any day that a MSP Agreement Vessel is engaged in transporting more than 7,500 tons (using the U.S. English standard of short tons, which converts to 6,696.75 long tons, or 6,803.85 metric tons) of civilian bulk preference cargoes pursuant to section 901(a), 901(b), or 901b of the act, provided that it is bulk cargo.

#### § 295.31 Criteria for payment

(a) *Submission of voucher.* For contractors operating under more than

## 46 CFR Ch. II (10-1-15 Edition)

one MSP Operating Agreement, the contractor may submit a single monthly voucher applicable to all its agreements. Each voucher submission shall include a certification that the vessel(s) for which payment is requested were operated in accordance with § 295.21(d) and applicable MSP Operating Agreements with MARAD, and consideration shall be given to reductions in amounts payable as set forth in § 295.30. All submissions shall be forwarded to the Director, Office of Accounting, MAR-330 Room 7325, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590. Payments shall be paid and processed under the terms and conditions of the Prompt Payment Act, 31 U.S.C. 3901.

(1) Payments shall be made per vessel, in equal monthly installments, of \$175,000.

(2) To the extent that reductions under § 295.30(b) are known, such reductions shall be applied at the time of the current billing. The daily reduction amounts shall be based on the annual amounts in 295.30(a) of this part divided by 365 days (366 days in leap years) and rounded to the nearest cent. Daily reduction amounts shall be applied as follows:

FY 1997—\$5,753.42  
FY 1998—\$5,753.42  
FY 1999—\$5,753.42  
FY 2000—\$5,737.70  
FY 2001—\$5,753.42  
FY 2002—\$5,753.42  
FY 2003—\$5,753.42  
FY 2004—\$5,737.70  
FY 2005—\$5,753.42

(3) In the event a monthly payment is for a period less than a complete month, that month's payment shall be calculated by multiplying the appropriate daily rate in § 295.31(a)(2) by the actual number of days the Eligible Vessel operated in accordance with § 295.21.

(4) MARAD may require, for good cause, that a portion of the funds payable under this section be withheld if the provisions of § 295.21(d) have not been met.

(5) Amounts owed to MARAD for reductions applicable to a prior billing period shall be electronically transferred using MARAD's prescribed format, or a check may be forwarded to the Maritime Administration, P.O. Box

## Maritime Administration, DOT

## § 296.2

845133, Dallas, Texas 75284-5133, or the amount owed can be credited to MARAD by offsetting amounts payable in future billing periods.

(b) [Reserved]

### Subpart E—Appeals Procedures

#### § 295.40 Administrative determinations.

(a) *Policy.* A Contractor who disagrees with the findings, interpretations or decisions of the Contracting Officer with respect to the administration of this part may submit an appeal to the Maritime Administrator. Such appeals shall be made in writing to the Maritime Administrator, within 60 days following the date of the document notifying the Contractor of the administrative determination of the Contracting Officer. Such an appeal should be addressed to the Maritime Administrator, Att.: MSP Contract Appeals, Maritime Administration, 400 Seventh St., S.W. Washington, D.C. 20590.

(b) *Process.* The Maritime Administrator may require the person making the request to furnish additional information, or proof of factual allegations, and may order any proceeding appropriate in the circumstances. The decision of the Maritime Administrator shall be final.

## PART 296—MARITIME SECURITY PROGRAM (MSP)

### Subpart A—Introduction

Sec.

- 296.1 Purpose.
- 296.2 Definitions.
- 296.3 Applications.
- 296.4 Waivers.

### Subpart B—Eligibility

- 296.10 Citizenship requirements of owners, charterers and operators.
- 296.11 Vessel requirements.
- 296.12 Applicants.

### Subpart C—Priority for Granting Applications

- 296.20 Tank vessels.
- 296.21 Participating Fleet Vessels.
- 296.22 Other vessels.
- 296.23 Discretion within priority.

- 296.24 Subsequent awards of MSP Operating Agreements.

### Subpart D—Maritime Security Program Operating Agreements

- 296.30 General conditions.
- 296.31 MSP assistance conditions.
- 296.32 Reporting requirements.

### Subpart E—Billing and Payment Procedures

- 296.40 Billing procedures.
- 296.41 Payment procedures.

### Subpart F—Appeals Procedures

- 296.50 Administrative determinations.

### Subpart G—Maintenance and Repair Reimbursement Pilot Program

- 296.60 Applications.

AUTHORITY: Pub. L. 108-136, Pub. L. 109-163; 49 U.S.C. 322(a), 49 CFR 1.66.

SOURCE: 70 FR 55588, Sept. 22, 2005, unless otherwise noted.

## Subpart A—Introduction

### § 296.1 Purpose.

This part prescribes regulations implementing the provisions of Subtitle C, Maritime Security Fleet Program, Title XXXV of the National Defense Authorization Act for Fiscal Year 2004, the Maritime Security Act of 2003 (MSA 2003), governing Maritime Security Program (MSP) payments for vessels operating in the foreign trade or mixed foreign and domestic commerce of the United States allowed under a registry endorsement issued under 46 U.S.C. 12105. The MSA 2003 provides for joint responsibility between the Department of Defense (DOD) and the Department of Transportation (DOT) for administering the law. These regulations provide the framework for the coordination between DOD and DOT in implementing the MSA 2003. Implementation of the MSA 2003 has been delegated by the Secretary of Transportation to the Maritime Administrator, U.S. Maritime Administration and by the Secretary of Defense to the Commander, U.S. Transportation Command, respectively.

### § 296.2 Definitions.

For the purposes of this part: